



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/239,878	01/29/1999	MARK L. BOYER	07091-006001	6652
7590	10/31/2003		EXAMINER	
MARGARET A BOULWARE JENKENS AND GILCHRIST 1100 LOUISIANA SUITE 1800 HOUSTON, TX 77002			DORSEY, DENNIS	
			ART UNIT	PAPER NUMBER
			3637	
			DATE MAILED: 10/31/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Office Action Summary	Application No.	Applicant(s)
	09/239,878	BOYER ET AL.
	Examiner Dennis L Dorsey	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 33,34,36,37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) 39 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 33,34,36 and 37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 January 1999 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 39 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claim sets forth a method of installing the vault, whereas the previously reviewed claims sets forth an apparatus, the vault. Further the method, as set forth does not require the modular vault as claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 39 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 33 and 36, are rejected under 35 U.S.C. 102(b) as being anticipated by Holmberg Patent Number 1,412,784.

Holmberg '784 teaches all the limitations of the above claims including a modular vault with a seamless (page 1, column 2, lines 75-81) housing body (5) with front, rear, side, roof and floor walls forming an unitarily single piece, having a door (6) in an

Art Unit: 3637

opening in the front wall connected to a door frame of hinges (see figure), and the vault is fire resistant and burglary proof.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 33-34 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmberg Patent Number 1,412,784 in view of Speer Patent Number 5,493,817.

Holmberg '784 teaches all the limitations of the above claims except the use of hooks. Holmberg '784 teaches a modular vault with a seamless (page 1, column 2, lines 75-81) housing body (5) with front, rear, side, roof and floor walls forming an unitarily single piece, having a door (6) in an opening in the front wall connected to a door frame of hinges (see figure), and the vault is fire resistant and burglary proof. Speer '817 teaches the use of hooks to hoist an enclosed container. It would have been obvious for one skilled in the art at the time the invention was made to modify the vault as taught by Holmberg '784 to provide integrated hooks to hoist the vault into a building onto office floors above the basement as taught by Speer '817 since providing integrated hooks require only routine skill in the art.

Response to Arguments

6. Applicant's arguments filed August 11, 2003 have been fully considered but they are not persuasive. The Applicant argues that Holmberg does not teach a front wall because the door takes up the entire opening. The Examiner disagrees with the Applicants arguments. The Examiner maintains that the outer border or edges of the side, top and bottom walls forms the front wall as claimed (see the Figure). The limitations as set forth in the claims is "said seamless housing body having portions defining a front wall having a door opening there through"; thus the Holmberg reference meets these limitations. The argument that the door takes up the entire opening is moot since the claimed structural language is met. Finally, the Applicant argues that the Holmberg reference does not teach a walk-in vault; and further argues the distinction is important because a walk-in vault allows a person to actually enter into the vault, whereas one would not be able to walk into the Holmberg safe. The Examiner disagrees with the Applicant's arguments. The Examiner maintains that the Holmberg teaches all the limitations as set forth, thus teaches a walk-in vault. First, the Examiner would like to point out that in a 102 rejection, if all structural limitations are met, then it is inherently a walk-in vault. Secondly, the Applicant is limiting the Holmberg reference with the statement that it is not a walk-in vault, since the Examiner contends that a child, dog, or any other small pet could walk into the vault. The Applicant is arguing points of invention not fully disclosed in the claims.

Art Unit: 3637

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD



LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

